IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

THURSDAY, THE NINTEENTH DAY OF OCTOBER,
TWO THOUSAND AND SIX

PRESENT

THE HON'BLE MR JUSTICE J.CHELAMESWAR
AND
THE HON'BLE MR JUSTICE D.APPA RAO

WRIT PETITION No.17728 OF 2006

Between:

M/s.Ramalingeswara Traders, Mandapeta,
Rep. by its Managing Partner Sri
K.Sivaramachandra Reddy.

..... PETITIONER

AND

The Additional Commissioner (CT), Legal,
Commissioner of C.T. Building,
Nampally, Hyderabad, and others.

....RESPONDENTS

THE HON'BLE MR JUSTICE
J.CHELAMESWAR
AND
THE HON'BLE MR JUSTICE
D.APPA RAO

WRIT PETITION No.17728 OF 2006

O R D E R
(Per Sri Justice J.Chelameswar)

This writ petition is filed with a prayer as follows:

> **"… Hon'ble Court may be pleased to issue a writ or direction more particularly one in the nature of Writ of Mandamus declaring the order passed by the 1st respondent in CCTs Ref.No.LV(3) 183/2005, dated 02-04-2005 rejecting the stay of collection of the disputed taxes for the Asst. Year 1998-"99 is illegal arbitrary and contrary to the provisions of APGST Act, 1957 and set aside the same, consequently direct the 2nd respondent not to collect the taxes pending disposal of the appeal before the 3rd respondent and grant such other…"**

The petitioner is a partnership firm engaged in sales and purchases of paddy and rice to various dealers and also a registered dealer on the rolls of the 2nd respondent. For the assessment year 1997-1998 the 2nd respondent completed the assessment of the tax liability of the petitioner under the APGST Act. The petitioner claims that the total turn over of the firm an amount of Rs.53,12,087/- representing the export sales made by the petitioner and therefore exempted under Section 5(3) of the Central Sales Tax Act. It appears from the assessment order, the petitioner did not file any objections to the show-cause notice. However, aggrieved by the assessment order,

the petitioner carried the matter in appeal before the First Appellate Authority - the Deputy Commissioner (Appeals), unsuccessfully, by an order dated 16.05.2000. The petitioner carried the matter in a further appeal before the Sales Tax Appellate Tribunal. During the pendency of the appeal, the petitioner filed an application seeking stay of collection of the disputed tax. The said application was rejected by the 1st respondent by his order dated 02.04.2005. Hence, the present writ petition.

The conduct of the petitioner, in our view, does not justify any indulgence in exercise of the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India. To start with, he did not file any objection before the Assessing Authority. Further, the particular sales made in the course of export is a matter to be established on the basis evidence and whether such evidence was produced before the primary authority or not is also not known. It is not clear from the material papers filed in support of the writ petition whether such evidence is either produced before the First Appellate Authority or even before the Second Appellate Authority, before whom the appeal is now pending.

In the circumstances, we do not see any merit in the writ petition to grant the relief as prayed for by the petitioner in the writ petition. Therefore, the writ petition is dismissed at the admission stage itself.

JUSTICE J.CHELAMESWAR

JUSTICE D.APPA RAO

19TH OCTOBER, 2006
PGS

THE HON'BLE MR JUSTICE
J.CHELAMESWAR
AND
THE HON'BLE MR JUSTICE
D.APPA RAO

WRIT PETITION No.17728 OF 2006
(Per Sri Justice J.Chelameswar)

19th OCTOBER, 2006